

1 Q. As is common with me, I see that you've used
2 the word "clear."

3 A. Yes.

4 Q. That's a strong word here that you're using
5 in this particular sentence, as opposed to
6 the first sentence which says "should have
7 been," this is an affirmative word, "clear."
8 Can you show me where in GE's materials it
9 makes clear in 2002, "that open Metal Halide
10 fixtures should not be placed over
11 combustible material and that either
12 protected lamps (shrouded) or lens covers
13 should be used in such applications."

14 A. All right. So the first part of the
15 question has to do with, it says, "It should
16 have been clear," the beginning of paragraph
17 63, and then the middle of the paragraph, it
18 says, "It was also clear." There is a
19 distinction here. If you read the first
20 sentence, it says, "It should have been
21 clear to those responsible for maintaining
22 the lights."

23 Q. Right, but I'm talking about the second.

24 A. Right. I understand that, but part of your
25 question included the first, actually.

1 THE WITNESS: Maybe you could read
2 back the question.

3 Q. It was completely unrelated.

4 MR. CAMPBELL: Actually, you
5 specifically made reference to it.

6 MR. STERN: No. I said the way
7 that he used it was different.

8 MR. CAMPBELL: He is answering your
9 question that you put.

10 Q. I can do it again. In this third sentence,
11 you use the word "clear." "It was also
12 clear by 2002 that open metal Halide
13 fixtures should not be placed over
14 combustible materials and that either
15 protected lamps (shrouded) or lens covers
16 should be used in such applications." I
17 want to know, can you show me in the
18 materials where it was made clear, "By 2002
19 that open metal Halide fixtures should not
20 be placed over combustible material and that
21 either protected lamps (shrouded) or lens
22 covers should be used in such
23 applications."

24 A. Sure.

25 Q. Great?

1 A. So first in the materials, essentially,
2 catalog that describes the GE products on
3 the page towards the end. In fact, it's the
4 last page before the notes page. It talks
5 about -- this is typical of the GE
6 catalogs. They have warning notices at the
7 end of these catalogs, and they specifically
8 talk about the "Lamp Enclosure Type." If you
9 look at the left column, bottom paragraph,
10 in the middle of the paragraph, it says,
11 "For example, if the lamp is located near
12 combustible material or in an area which is
13 unoccupied for extended periods, an enclosed
14 fixture which can contain fragments of hot
15 quartz or glass is recommended. For more
16 information, contact your fixture
17 manufacturer." So that is one location
18 where a specific reference to that issue is
19 made. I mean, I would say that, more
20 broadly, for those supplying these kinds of
21 fixtures and facility managers and so forth,
22 when I say it was clear, the industry had
23 published very broadly on this issue. You
24 see publications starting from 1985 onwards
25 or communications in the eighties and the

1 nineties that talk about the consequences of
2 using S-rated lamps, when to use them and
3 when not to use them, and you know, some of
4 those materials we've already identified.
5 One second. I'm going to strain my eyes for
6 a moment. So in the documents that were
7 provided by Andrew Kuzmick to David Kuzmick,
8 there's a caution immediately below the
9 table here and it reads --

10 Q. You're looking at the second page of the tab
11 number 2?

12 A. That's correct. "The following operating
13 instructions must be complied with to help
14 avoid possible shattering and early failure
15 of the lamp," and it goes on to say, "Metal
16 Halide lamps are constructed of an outer
17 bulb with an internal arc tube made of
18 quartz. The arc tube operated under high
19 pressure at very high temperature as high as
20 approximately 1100 C. The arc tube and
21 outer bulb may unexpectedly rupture due to
22 internal causes or external factors such as
23 a system failure or misapplication."

24 So the combination here of the fact
25 that the possibility exists associated with

1 possible shattering and the fact that the
2 temperatures are very high, and it says that
3 in more than one location, is in my opinion
4 pretty clear communication that this risk
5 does exist and appropriate measures must be
6 taken.

7 Q. I want to go back to the rated life analysis
8 that you told me about. If a lamp is placed
9 inside of an enclosed fixture, the lamp's
10 life cycle will be shorter or its median
11 rated life will be shorter?

12 A. So we should not confuse two principles
13 here. The cycling of the lamp, which is the
14 duration over the period during which the
15 lamp is on -- that's cycling, okay, and in
16 GE testing, "cycling" specifically refers to
17 ten-hour cycling, in which the test is such
18 that the lamp is kept on for ten hours, then
19 switched off for some time, then turned back
20 on for ten hours, and so on, repeating this
21 ten-hour cycle. So that's cycling. The
22 rated life is a concept that has to do with
23 the median life of lamps when they're
24 operated under that specific test protocol.
25 What you're asking about is, what would the

1 median life be if the lamp were now in an
2 enclosed fixture, instead of an open
3 fixture. Have I understood your question
4 correctly?

5 Q. Correct.

6 A. And I've already answered that question, but
7 I'll answer it again. What I expect --
8 first of all, the rated life, as defined by
9 GE. Doesn't change. The rated life is the
10 rated life. It's 16,000 hours for this
11 particular lamp. That's what it is. The
12 median life, if operated in otherwise
13 identical conditions as the test protocol
14 used by GE, other than now placing the lamp
15 into an enclosed fixture, I expect to have
16 probably a small effect that would shorten
17 the median life of a population of lamps
18 that are tested.

19 Q. So GE got the 16,000 hours rated life on
20 these ten-hour cycles and then in the
21 materials here -- and you talk about
22 operating on five-hour cycle would reduce
23 the rated life by 75 percent --

24 A. Yes.

25 Q. -- and then we've spoken about that

1 operating a lamp at 120-hour cycle will
2 increase the rated life by 50 percent?

3 A. GE states that in their materials, yes.

4 Q. If you operate the lamp at some cycle
5 between ten hours and 120 hours, do you get
6 any extra rated life; does your rated life
7 increase at all; or it's either 120, ten,
8 five, three, two, one?

9 A. So as GE defines it, it's ten or 120, and
10 then the lower ones that they specifically
11 call out in their materials.

12 Q. And in practice -- although they don't talk
13 about it, clearly -- if you operate a lamp
14 on a cycle between ten hours and 120 hours,
15 does that extend the rated life, keep the
16 rated life the same as that ten-hour, or
17 shorten it, using the exact same test
18 scenario that they used in the lab?

19 A. Remember, the rated life concept is one that
20 is used for planning purposes. Okay. So if
21 you know what your operation is going to be
22 like, you select the lamp, on the one hand,
23 your group relamping schedule on the other,
24 as well as any maintenance that you may need
25 to do based on the product you have

1 selected. Okay? So in practice, industry
2 does not and should not operate in a manner
3 where it does not plan ahead, but rather,
4 asks, looking backwards, "Well, how did we
5 use the lamps this week," and then in
6 accordance with that, change their
7 schedules. The way GE intends these
8 materials to be used is, for this particular
9 product, to look at what the rated life is
10 and then to schedule your relamping at a
11 duration that corresponds to the rated life
12 or a shorter duration. For example, Andrew
13 Kuzmick himself recommended to Metso 75
14 percent of rated life relamping schedule.
15 So that's how it works.

16 MR. STERN: What was my question?

17 (The previous question was read
18 back by the court reporter.)

19 A. Rated life does not change.

20 Q. So operating a lamp on a cycle greater than
21 ten hours and less than 120 hours will not
22 change the rated life of that lamp?

23 A. The rated life is what GE defines it to be
24 based on their testing. If you now go to
25 Metso, and they're operating the lights as

1 they choose to, the rated life of that lamp
2 hasn't changed. It's still what GE
3 advertises. That's my answer to your
4 question.

5 Q. Let me see if I can try and clarify this. I
6 know what you want to say. Thank you.

7 Let's look at -- do you see the 750 at issue
8 in this litigation in this booklet, in tab
9 number 8?

10 A. It's right here.

11 Q. Does it have a footnote reference?

12 A. It does.

13 Q. And the footnote reference is footnote 43?

14 A. Yes.

15 Q. If we go to look to see what footnote 43 is,
16 can you please read footnote 43?

17 A. Yes.

18 Q. Go ahead.

19 A. "When operated on a 120-hour cycle
20 (minimum), lamp life rating may be extended
21 by up to 50 percent based on engineering
22 estimates."

23 Q. So GE in this footnote is talking about
24 extending lamp life rating. Is that any
25 different than rated life?

1 A. Well, what they're talking about here is,
2 when operated on a 120-hour hour cycle, at
3 the minimum --

4 Q. Correct?

5 A. -- lamp life rating may, possibly, but
6 that's my addition, may be extended by up
7 to 50 percent based on engineering
8 estimates.

9 Q. Okay. Is lamp life rating the same thing as
10 rated life?

11 A. In this footnote 43, lamp life rating comes
12 burdened with having to perform an
13 engineering estimate, okay, and if you
14 perform an engineering analysis of the lamp
15 life rating, it may be increased when
16 operated on a cycle longer than 120 hours.
17 I think it's pretty clear. That's what it
18 is.

19 Q. Is lamp life rating the same thing as rated
20 life?

21 A. So the lamp life rating is the median
22 population -- sorry -- the failure time at
23 which 50 percent of the lamps cease to
24 light.

25 Q. Is lamp light rating the same thing as rated

1 life?

2 A. Generally speaking, I can't answer that
3 question. I can only answer it in the
4 context of footnote 43.

5 Q. We're looking at 43.

6 A. Right. So in the context of footnote 43,
7 yes, they are the same thing.

8 Q. So if a lamp is operating on a 120-hour
9 cycle minimum, based upon GE's engineering
10 estimates, the rated life of that lamp may
11 be extended up to 50 percent; right?

12 A. Yes.

13 Q. If a lamp is operated on a 112-hour cycle
14 minimum, can the lamp life rating be
15 extended by any amount?

16 A. No.

17 Q. I want to show you a document we marked as
18 Kytomaa exhibit 5. (Indicating.) Have you
19 ever seen this document before I just handed
20 it to you?

21 A. I have.

22 Q. When did you see this document first?

23 A. I've had these Answers to Interrogatories
24 for some time. I don't recall when.

25 Q. Is it on disk?

1 A. Yes, it should be. Yes.

2 Q. And your report doesn't mention any of the
3 information contained in these Answers to
4 Interrogatories; correct?

5 A. So what I have -- sorry -- what is the
6 question?

7 (The previous question was read
8 back by the court reporter.)

9 A. I don't know that that's true.

10 Q. Does your report talk about the Clarks
11 Summit facility operating from Sunday at
12 eleven p.m. to Friday, eleven p.m. or
13 Monday, seven a.m. to Saturday, seven a.m.?

14 A. Well, it's inconsistent with David Kuzmick's
15 own testimony, where he specifically says
16 that there are separate events. There's
17 work during the week and then on occasion,
18 there's work during the weekend.

19 Q. All right. I think we're all aware of what
20 he testified to. That wasn't the question I
21 asked you, though, was it. I asked you if
22 your report talks about this statement in
23 this answer to interrogatory.

24 MR. CAMPBELL: Which statement?

25 Q. We'll start with the first sentence. "David

1 Kuzmick of Metso Paper, Clarks Summit
2 facility, specifically, recalls reviewing
3 the sleeve of GE 750 watt bulbs at the
4 Clarks Summit facility before the
5 explosion." Does your report specifically
6 talk about David Kuzmick reviewing the
7 sleeve of the 750 watt bulb?

8 A. Just going from memory, I don't recall that
9 I mentioned whether he does or doesn't in my
10 report and I do know that Joe Saler is
11 probably addressing issues associated with
12 whether David Kuzmick reviewed the sleeve or
13 not.

14 Q. And in the next sentence, "Mr. Kuzmick also
15 confirms that prior to the explosion, the
16 Clarks Summit facility operated from Sunday,
17 eleven p.m. to Friday, eleven p.m.; or
18 Monday, seven a.m. to Saturday, seven a.m."
19 Isn't it true your report doesn't discuss
20 that information?

21 A. Well, actually, it may, in the sense that
22 the Monday, seven a.m. to Saturday, seven
23 a.m. May be consistent with what I say in my
24 report. In other words, that's not entirely
25 inconsistent with what David said in his own

1 sworn testimony where he said that they work
2 Monday to Friday and then sometimes on the
3 weekends. So I would say that, to the
4 extent that there is a break in the
5 duration -- here, it says -- and let me
6 quote exhibit 5 that you've put in front of
7 me, "Mr. Kuzmick also confirms that prior to
8 the explosion, the Clarks Summit facility
9 operated from Sunday, eleven p.m. to Friday,
10 eleven p.m.; or Monday, seven a.m. to
11 Saturday, seven a.m." It doesn't here say
12 anything about the lights being switched off
13 and back on, while in his own sworn
14 testimony in his deposition, he did say
15 that. So I think that this document is not
16 inconsistent with his sworn testimony. The
17 only absence of clarification in his
18 additional Supplemental Answer to
19 Defendant's Interrogatories is that he
20 qualifies the total period of time from
21 Sunday to Friday or Monday to Saturday.

22 Q. How much time -- how many hours are there
23 between Sunday, eleven p.m. to Friday,
24 eleven p.m.?

25 A. That would be 120 hours between Sunday,

1 eleven p.m. to Friday, eleven p.m.?

2 Q. And how many hours are there between Monday,
3 seven a.m. to Saturday, seven a.m.?

4 A. That's also 120 hours, exactly.

5 Q. And does your report anywhere speak about
6 the Clarks Summit facility operating on a
7 120-hour cycle?

8 A. I certainly considered it, yes.

9 Q. And does your report talk about the Clarks
10 Summit facility actually operating on a
11 120-hour cycle?

12 A. Well, no, because if I take this document in
13 combination with his sworn testimony, what
14 those two together suggest is that it might
15 have been 120 hours, but it was broken out.
16 So what I considered was, in light of the
17 body of information here, is 120 hours
18 that's broken up somewhere on the weekend.
19 So if you take the Monday-to-Saturday
20 sequence, it might be broken up between
21 Friday night and Saturday morning somehow,
22 or for a short period of time on Sunday. I
23 don't quite know when.

24 Q. Isn't the reason why your report doesn't
25 talk about anything on this Answer to

1 Interrogatory, Supplemental Answer to
2 Interrogatory, because your report is dated
3 over a month before this actual document was
4 created?

5 A. Let's see. When was this created? That
6 would be a reason why I don't mention it,
7 for sure, but I've seen this document
8 before.

9 Q. And you never supplemented, amended, or
10 changed your report after the August 31,
11 2010 date; correct?

12 A. No, I have not supplemented my report.

13 Q. This was plaintiff's exhibit 2. I think
14 you'll recognize this document as being your
15 tab number 2, just on one piece of paper;
16 correct? (Indicating.)

17 A. Yes.

18 Q. On the first page, you see there's a box in
19 the middle of the page where it says
20 "Applications"?

21 A. Yes.

22 Q. And you have "Industrial Lighting,
23 Warehouse, Parking Areas" and "General
24 Lighting." Do you agree that the 750 watt
25 metal Halide bulb that is depicted in this

1 document is appropriate for those four
2 applications?

3 A. Yes. I think there's a good picture of a
4 perfectly good application for those lamps
5 in this document on that page.

6 Q. Can you describe for me or explain to me how
7 a 750 watt PulseArc Multi-vapor lamp can be
8 in a warehouse in an open fixture and be an
9 S-rating and not increase the risk of fire?

10 A. I'll give you some examples, but to the
11 extent that the environment is one where
12 there are no combustibles -- like for
13 example, if there is a warehouse that stores
14 bricks or metal cast components, those kinds
15 of things -- and it is done in such a manner
16 as to not use combustible materials, then
17 it's perfectly reasonable -- that is, then I
18 would say that the risk of a fire is
19 minuscule. The same would be true in
20 outdoor spaces. For example, in parking
21 lots.

22 Q. Let me show you a document that was
23 previously marked as plaintiff's exhibit 4.
24 (Indicating.) Have you ever seen this
25 document before today?

1 A. I have. Well, actually, I'm not sure that
2 I've seen it as this specific exhibit, but I
3 believe I've seen some representations of
4 this, what's in the document before.

5 Q. What was this represented as reflecting?

6 A. Well, let me take a look. It was
7 represented to me as representing the text
8 that is in the -- I mean, I recognize this
9 document. I'm not sure I understand the
10 question.

11 Q. What is this document?

12 A. This document is a sleeve that is used for a
13 750 watt Metal Halide lamp.

14 Q. And you get that information from the third
15 page of the document, the bottom left-hand
16 section?

17 A. Yes.

18 Q. Okay, and do you know what "Ballast M149"
19 means?

20 A. It's a reference to ballast, but I don't
21 know specifically what M149 is.

22 Q. Is M149 for an S-rated lamp or an E-rated
23 lamp?

24 MR. CAMPBELL: Which page of the
25 exhibit?

1 MR. STERN: The third. The bottom
2 left, you'll see the label, the sticker.

3 MR. CAMPBELL: Got it.

4 A. M149 is designated as a ballast that can be
5 used for S-rated. I don't know whether it's
6 exclusively for S-rated.

7 Q. Okay. Looking at the second page of this
8 document, plaintiff's exhibit 4 --

9 A. Yeah.

10 Q. -- do you see anywhere on this page
11 reference to explosion?

12 A. So second page, I do not see any reference
13 to explosion.

14 Q. How about non-passive failure, do you see
15 that mentioned on the second page?

16 A. I do not.

17 Q. Going to the fourth page, which has the
18 warning section clearer than the third
19 page --

20 A. Uh-huh.

21 Q. -- there is a bullet -- there is a section
22 called "Risk of Fire," do you see that?

23 A. Yes.

24 Q. That has two bullets; correct?

25 A. Yes.

1 Q. And only two bullets; correct?

2 A. Well, there's two sections that mention
3 fire, the second and the fourth.

4 Q. We'll get to that. Just the "Risk of Fire"
5 section.

6 A. Second section. Correct.

7 Q. "Keep combustible materials away from
8 lamp."

9 A. Yes.

10 Q. Did Metso have combustible materials not
11 away from the lamp?

12 A. Well, I mean, in light of the fact that they
13 had combustible materials in close proximity
14 to the lamp, that's a question that Metso
15 themselves should have addressed.

16 Q. And how close was the --

17 A. I don't know the exact dimension; that is,
18 the distance from the lamp to the top of the
19 rack, but you know, it wasn't far.

20 Q. Is ten feet close proximity?

21 A. Well, if the lamp is above the combustibles,
22 that would be close, yes.

23 Q. Is 20 feet close proximity?

24 A. I'm not sure whether 20 feet is relevant
25 here. I think that the distance between the

1 lamp and the materials was less than 20
2 feet, but if the lamp is generally above the
3 combustibles, that would be close.

4 Q. How far was the lamp above the ground?

5 A. I don't know.

6 Q. When you were there in April, how far was
7 the lamp above the ground?

8 A. I did not quantify that.

9 Q. More than 20 feet?

10 A. So the lamps were just over 20 feet above
11 the ground at the time of my inspection and
12 the racks were certainly well over, I would
13 expect, ten feet or so.

14 Q. Did Metso use the lamp in a fixture rated
15 for the lamp? I'm looking at the second
16 bullet point.

17 A. I didn't know what you were looking at.

18 Q. I'm looking at the second bullet point of
19 plaintiff's exhibit 4.

20 A. Yeah.

21 Q. Under the "Risk of Fire" section, we just
22 talked about the first bullet point. The
23 second bullet point says, "Use in fixture
24 rated for this product." Did Metso not use
25 the lamp in a fixture rated for this

1 product?

2 A. No. They used a fixture that was rated for
3 this project.

4 Q. So now, jumping two sections, the section
5 titled "Unexpected lamp rupture may cause
6 injury, fire, or property damage," do you
7 see that section?

8 A. Yes.

9 Q. Did Metro exceed the rated voltage of the
10 lamp?

11 A. I have no knowledge about the voltages, so I
12 don't know.

13 Q. Was the lamp directly exposed to water or
14 outdoors without an enclosed fixture?

15 A. I don't believe it was.

16 Q. "Use an enclosed fixture rated for this
17 product. See instructions." Did Metso not
18 follow those instructions?

19 A. Well, to the extent that these instructions
20 refer to materials that we've already
21 reviewed in the catalog, I would say they
22 did not follow those instructions.

23 Q. To the extent those instructions refer to
24 the part of the labor where it says
25 "Specified operating positions," did they

1 follow the specified operating positions for
2 this lamp, to be used in an open fixture?

3 A. Well, it says "See instructions," all right,
4 and so it's not clear to me that "See
5 instructions" is what you say it is.

6 Q. So can we agree that this "See instructions"
7 isn't really clear on what instructions
8 they're talking about?

9 A. If I were working at the facility and I see
10 "See instructions," I would look for any
11 instructions that they had, and the
12 instructions that they had were what Dave
13 Kuzmick had.

14 Q. You wouldn't go and look right above where
15 it says "Specified operating positions"?

16 A. No, because I don't see instructions here.
17 The way I read this is that I need to look
18 for instructions. "See instructions."

19 Q. So if you can turn to the second page, where
20 it has "Specified operating positions," it
21 says "VBU - Base up plus or minus 15
22 degrees," that's the type of lamp that Metso
23 had; correct?

24 A. Yes.

25 Q. And "VBD - Base down plus or minus 15

1 degrees/U - Universal," that's not what they
2 were using; correct?

3 A. No. They had a base up.

4 Q. And then the next line, "Lamps operated in
5 vertical position (base up or base down),
6 plus or minus 15 degrees, can be used in an
7 open fixture." Do you see that?

8 A. Yeah.

9 Q. Where were they operating their lamp base up
10 within plus or minus 15 degrees?

11 A. Yes.

12 Q. Then the next sentence, "Lamp burned in any
13 other orientation must be used in enclosed
14 fixtures only." Were they burning it in any
15 other orientation?

16 A. They were not.

17 Q. Okay. Do you have any information that the
18 lamp at issue, that the outer glass was
19 scratched or broken prior to the fire?

20 A. I have no independent information about
21 that.

22 Q. Do you have any information that the
23 ballast -- that Metso was not using the
24 properly rated ballast prior to the fire?

25 A. I know they had ballast problems prior to

1 the fire, but that's all I know. The
2 ballast did have problems.

3 Q. Do you know if it was a properly rated
4 ballast?

5 A. I have no reason to believe that it was an
6 improperly rated ballast.

7 Q. And the next one, "Operate lamp only in
8 specified position," and I believe you said
9 they did that?

10 A. Yes, that's correct.

11 Q. "Turn lamp off at least once for 15 minutes
12 per week," and your report talks about them
13 having done that; correct?

14 A. Correct.

15 Q. "Don't store flammable materials near/below
16 lamp." Do you see that?

17 A. Yes.

18 Q. Does that say "in close proximity"?

19 A. It says "near/below lamp."

20 Q. Does it say "near or below lamp"?

21 A. I would read that as, "Don't store flammable
22 materials near the lamp," and I would read
23 it also as "Don't store flammable materials
24 below the lamp."

25 Q. You would put an "or" there?

1 A. "And" or "or."

2 Q. "And" or "or"?

3 A. Yeah. Neither.

4 Q. So if I go back up where it says, "Do not
5 use lamp if outer glass is scratched or
6 broken," there they use the word "or," but
7 here, GE did not use the word "or," and you
8 would still put an "or" there?

9 A. I wouldn't necessarily edit it. I think
10 it's pretty clear as it stands. That's how
11 I interpret it.

12 Q. Okay. Next one, "Do not use beyond rated
13 life." You believe Metso used the lamp
14 beyond its rated life?

15 A. That's correct.

16 Q. "If used on a dimming system, see
17 instructions." Was the lamp used on a
18 dimming system?

19 A. No.

20 Q. So that one is not applicable; correct?

21 A. No.

22 Q. "Do not turn on lamp until fully
23 installed." Do you have any information
24 regarding them turning on lamp before it was
25 fully installed?

1 A. No.

2 Q. Okay. Can you tell me where on this
3 document, anywhere on this document, it
4 identifies the rated life of the lamp?

5 A. This particular document does not identify
6 the rated life of the lamp.

7 Q. Can you tell me anywhere on this document
8 where it talks about how rated life was
9 determined?

10 A. No. That's not the purpose of the wrapper
11 for the lamp.

12 Q. So is the bullet, "Do not use beyond rated
13 life" given any extra emphasis or location
14 or any way to make it stand out from any of
15 the other bullets on this page?

16 A. No. It's got a triangle with an exclamation
17 mark and a heading of "Warning," but
18 that's -- that's what it's given.

19 Q. I'm talking about the actual bullet, "Do not
20 use beyond rated life." Is there anything
21 about that bullet point, those words in that
22 bullet point, that are in any way
23 emphasized, highlighted in any way to stand
24 out from anything else on this page?

25 A. I mean, this page is the table of

1 warnings -- it's clearly identified as
2 that -- and within that, it's one of the
3 warnings like the others.

4 Q. Okay. I can obviously see that. My
5 question is: This bullet point, "Do not use
6 beyond rated life," is there anything about
7 that one that is highlighted, as compared to
8 any of the others on this page?

9 A. Well, I mean, there's some that are actually
10 highlighted more, like "Unexpected lamp
11 rupture may cause injury, fire, or property
12 damages," bolder than "Do not use beyond
13 rated life."

14 Q. Is "Do not use beyond rated life" in any way
15 emphasized, highlighted, as compared to any
16 of the other bullet points?

17 A. No. It's the same status as most bullet
18 points under the rubric of warnings.

19 Q. If you could turn to the last page, which is
20 the caution section, the first caption is
21 "Risk of burn." Do you see that?

22 A. I do.

23 Q. Okay, and that has two bullet points; right?

24 A. Yes.

25 Q. First one, "Allow lamp to cool before

1 handling." Do you have any information
2 about Metso not allowing lamps to cool
3 before handling?

4 A. No.

5 Q. And the second bullet point, "Do not turn
6 lamp on until fully installed." Do you have
7 any information about Metso turning on the
8 lamp before it was fully installed?

9 A. I do not.

10 Q. Okay. The next section, "Lamp may shatter
11 and cause injury if broken." Do you see
12 that?

13 A. Yes.

14 Q. First bullet point, "Wear safety glasses and
15 gloves when handling lamp." Do you have any
16 information that the lamp was handled and
17 safety glasses or gloves weren't used?

18 A. Yeah. I don't know anything about that.

19 Q. Okay, and then the next bullet point, "Do
20 not use lamp if outer glass is scratched or
21 broken." Do you have any information if
22 it's outer glass was scratched or broken
23 before the explosion?

24 A. I do not.

25 Q. The next bullet point, "Dispose of lamp in a

1 closed container." Do you have any
2 information about Metso failing to dispose
3 of lamp in a closed container prior to the
4 explosion?

5 MR. CAMPBELL: I don't think it was
6 disposed of. Go ahead.

7 A. I think some parts of it may have been
8 disposed and I don't know how they were
9 disposed.

10 Q. Of the lamp?

11 A. Right. I mean, not all of the lamp was
12 recovered.

13 MR. CAMPBELL: He said prior to.

14 Q. Pre. I mean, this bullet point is really
15 not applicable for us; right?

16 A. For the lamp in question, that's correct.

17 Q. Okay. Then "Do not use excessive force when
18 installing force." Do you have any
19 information that the lamp was installed with
20 excessive force?

21 A. None.

22 Q. Do you see anything on any of these pages
23 that mentions or references the word
24 "explosion"?

25 A. I do not. I wouldn't expect it to.

1 Q. Do you see anything on any of these pages
2 about the production of hot quartz particles
3 in a non-passive failure?

4 A. Yeah. I mean, I think it's pretty
5 obvious, "Unexpected lamp rupture may cause
6 injury, fire, or property damage," anyone
7 would know that any rupture of the lamp
8 would involve glass or quartz particles. I
9 don't believe that people really distinguish
10 between glass and quartz. They are not
11 experts in this area, but they would
12 understand that that's what it means.

13 Q. And then anything referenced in any of these
14 pages about that glass or quartz particles
15 being one thousand degrees Celcius?

16 A. I think the thousand degrees Celcius, all
17 that means to a lay person is that it's hot,
18 and I think that this entry communicates
19 that pretty clearly. There's no question in
20 my mind.

21 Q. Can you turn back to the second page,
22 please. If you look at the left-hand
23 column -- it might be easier on the third
24 page on the top left, that last section
25 called "Warning" on the second page, bottom

1 left?

2 A. I see, yeah. Okay.

3 Q. The first sentence, "This lamp can cause
4 serious skin burn and eye inflammation from
5 short wave ultraviolet radiation if outer
6 envelope of the lamp is broken or punctured
7 and the arc tube continues to operate." Do
8 you see that?

9 A. I do.

10 Q. Anything in this warning about the flying
11 pieces of hot quartz, flying particles of
12 hot quartz?

13 A. Not in that warning. Only in the later
14 warning that we've already discussed.

15 MR. STERN: Let's break.

16 (Recess.)

17 Q. Let me show you a document that was
18 previously marked as plaintiff's exhibit
19 12. (Indicating.) Have you ever seen this
20 document before now?

21 A. I may have. I don't specifically recognize
22 it, but I may have seen it before.

23 Q. So let me just take you to the first page,
24 second full paragraph, the last sentence,
25 where it says, "The second is more

1 interesting in that it basically states that
2 open burning should not be employed if there
3 is anything combustible in the vicinity
4 which is essentially an admission that the
5 lamp has a tendency to fail non-passively at
6 some none quantified rate and possesses an
7 ROF when it does so." Do you see that
8 sentence?

9 Q. And looking back at exhibit 4, the labeling
10 that we just looked at --

11 A. Yes.

12 Q. -- do you see it mentioned anywhere that the
13 lamp should be not burned in an open fixture
14 or that there should be no combustibles in
15 the vicinity of the lamp?

16 A. So is your question, does the exhibit that
17 we just looked at talk about this?

18 Q. Correct.

19 A. It says, "Do not store flammable materials
20 near/below lamp." It's pretty clear, so I
21 guess it does talk about that.

22 Q. Does it use the word "vicinity"?

23 A. It says "near/below." I'd say that pretty
24 much is the same meaning.

25 Q. Do you see the word "vicinity"?

- 1 A. I see the word "vicinity" on exhibit 12.
- 2 Q. Yes. I'm sorry. I meant on the packaging,
- 3 exhibit 4.
- 4 A. No, I don't see "vicinity."
- 5 Q. Fantastic. Now, if you could turn to the
- 6 second page of plaintiff's exhibit 12.
- 7 Please read the document and let me know
- 8 when you're done.
- 9 A. Okay.
- 10 Q: Do you see in the center of the page, "We
- 11 should take this meeting as an opportunity
- 12 to minimize future GEL liability by
- 13 proposing that industry via NEMA re-assess
- 14 this situation, move forward in a
- 15 deliberate, but planned fashion to recommend
- 16 that," and then there are three numbered
- 17 paragraphs? Do you see that section?
- 18 A. I see that.
- 19 Q. And the first numbered paragraph says, "All
- 20 MH lamps be used in enclosed fixtures,
- 21 unless they are rated suitable for use in
- 22 open fixtures." Is that referring to an
- 23 E-rated lamp?
- 24 A. So --
- 25 Q. The first part. Is that related to an

1 E-rated lamp?

2 A. Well, it doesn't really refer to any lamp.
3 It just says that lamp be used in enclosed
4 fixtures.

5 Q. And then the second numbered paragraph,
6 "Lamps rated suitable for use in open
7 fixtures must be certified by the
8 manufacturer to pass the ANSI
9 containment test (manufacturer
10 self-certification/verification)." Now, is
11 that talking about an O-rated lamp?

12 A. Yes. This sounds like an O-rated lamp, yes.

13 Q. So the first numbered paragraph is saying
14 that all Metal Halide lamps should be used
15 in enclosed fixtures unless rated suitable
16 for use in open fixtures, and the second
17 numbered paragraph says, if the lamp is
18 rated suitable for an open fixture, it's got
19 to be an O-rated lamp. Did I read that
20 right?

21 A. No. It doesn't say that. It just says that
22 the -- the second bullet says that lamps
23 rated suitable for use in open fixtures must
24 be certified. Basically, there's a
25 requirement for certification by the

1 manufacturer to pass the ANSI containment
2 test. Are you aware that that relates to
3 O-certification?

4 A. The specific reference is to the containment
5 test, though. In fact, nowhere does it say
6 "O-certification" in that particular
7 bullet. By way of inference, I would say
8 yes. I mean, there's a consistency between
9 O-certification and item 2.

10 Q. Can item 2 refer to an S-rated lamp?

11 A. No. It specifically talks about lamps rated
12 suitable for the use in open fixtures.

13 Q. Item number 2. Can that be an S-rated lamp?

14 A. No. It specifically says, "lamps rated
15 suitable for use in open fixtures."

16 Q. Isn't an S-rated lamp suitable for use in an
17 open fixture?

18 A. Well, this item talks about the
19 certification by the manufacturer to pass
20 the ANSI containment test, which is a --
21 it's a test having to do with the
22 containment structure in a lamp. So by
23 inference, I would interpret this item 2 as
24 not referring to S-rated lamps because, in
25 the second part of the sentence, where there

1 is a reference to the containment test, you
2 tend not to put an S-rated lamp through a
3 containment test.

4 Q. Are you aware that, in February of 1999,
5 GE's NEMA representative was internally
6 recommending to GE not to allow S-rated
7 lamps in open fixtures any longer?

8 A. What he was doing is asking that --

9 Q. Well --

10 A. I mean, I can read --

11 MR. CAMPBELL: Excuse me. Let him
12 finish.

13 Q. He says "recommending." So I just want to
14 clarify. You used the word "asking," but he
15 said "recommending."

16 MR. CAMPBELL: Finish your answer,
17 please.

18 A. He's saying that they should re-assess the
19 situation, move forward in a deliberate, but
20 planned fashion. Basically, it's a
21 proposal.

22 Q. In February of 1999?

23 A. To re-assess the situation, that's correct.

24 Q. And the situation is not to allow S-rated
25 lamps in open fixtures?

1 A. So this is a memo that talks about
2 re-assessing the situation and it talks
3 about these three items.

4 Q. And these three items, in re-assessing the
5 situation, is not allowing S-rated lamps in
6 open fixtures; correct?

7 A. So actually, it doesn't specifically state
8 that. What he does talk about is that, "All
9 MH lamps be used in enclosed fixtures unless
10 they are rated suitable for use in open
11 fixtures." So what that means is -- common
12 parlance is, item one is, enclose the
13 fixtures or use O-rated fixtures. The
14 second talks about lamps for open fixtures
15 have to be certified in accordance with a
16 certain standard associated with a
17 containment, and the third has to do with
18 listing with containment protection, unless
19 the fixture is specified and labeled to be
20 used only with lamps that are labeled
21 suitable for use in open fixtures. I mean,
22 I think the sections speak for themselves
23 and they're a little bit of a mouthful.
24 Q. So do these sections speak about, at this
25 point in time, GE's NEMA representative

1 recommending that GE go back to NEMA and
2 suggest that they re-assess that S-rated
3 lamps no longer be used in open fixtures?

4 A. I don't see that stated anywhere here. So
5 let me look at the document more fully.

6 Q. Fair enough. Take your time.

7 A. Okay. All right. So what was the
8 question?

9 Q. Is his recommendation that S-rated lamps not
10 be used in an open fixture?

11 A. All right. So what this document talks
12 about is, in that section very specifically
13 is, "Venture has indicated a strong interest
14 in discussing this issue," and that also,
15 the chairman of NEMA has put the subject on
16 the agenda on the next NEMA Lamp Section
17 meeting, and then the author of this
18 document considers it an opportunity to
19 minimize GE lighting liability, and so
20 essentially, you know, I think the way this
21 reads clearly is that it is not a proposal
22 or recommendation. It is a recommendation
23 for an agenda item in a meeting for subjects
24 of discussion.

25 Q. Is the author of this memo recommending that

1 GE take the position to NEMA that S-rated
2 lamps not be used in open fixtures?

3 A. This document identifies that as an agenda
4 item for discussion.

5 Q. That being what?

6 A. Items 1, 2 and 3, that is what you've
7 just --

8 Q. That an S-rated lamp not be used in an open
9 fixture?

10 A. I can read 1, 2, and 3 with you again, if
11 you'd like.

12 Q. Does the label in number 4 use the word
13 "vicinity" anywhere?

14 A. It says "near" --

15 Q. The question is: Does it use the word
16 "vicinity"?

17 A. It says "near and below."

18 Q. "Near and below," to you is the same as
19 "vicintiy"?

20 A. Practically speaking, yes.

21 Q. These three paragraphs, are they the same
22 as, practically speaking, not using an
23 S-rated lamp in an open fixture?

24 A. It is a proposal for an agenda item to have
25 a discussion to re-assess the situation.

1 That's correct. That's what this is.

2 Q. What, not to use an S-rated lamp in an open
3 fixture?

4 A. Well, actually, it's to -- that, "All Metal
5 Halide lamps be used in enclosed fixtures,
6 unless they're rated suitable for use in
7 open fixtures. 2. "Lamps rated suitable
8 for use in open fixtures must be certified
9 by the manufacture to pass the ANSI
10 containment test (manufacturer
11 self-certification/verification). 3. UL
12 should require that all MH fixtures be
13 listed with containment protection unless
14 the fixture is specified and labeled to be
15 used only and labeled to be used only with
16 lamps that are labeled suitable for use in
17 open fixtures."

18 I don't know whether Ed Yandek --
19 and to the extent that he's been deposed --
20 I have not reviewed his deposition -- what
21 he meant, other than what I've just stated.

22 Q. So now, the person that created the label in
23 exhibit 4, you didn't read that person's
24 transcript, the person that created that
25 label wording; did you?

1 A. I don't recall.

2 Q. Did you ever read any transcripts of any GE
3 employees that were involved in labeling?

4 A. I haven't reviewed that. I mean, I would
5 have expected Joe Saler to review those.

6 Q. But you didn't?

7 A. I did not.

8 Q. So you were able to make the jump from
9 "vicinity" to "near/below," but in this
10 circumstance, you're not willing to make the
11 jump that what this person is talking about
12 is not using an S-rated lamp in an open
13 fixture?

14 A. I think it's very simple. In the context of
15 "vicinity," "near" and "below," I think in
16 the context of this application, the meaning
17 of those words is very clear and I think
18 unambiguous to pretty much anyone. Okay?
19 Here, in this particular document, this is a
20 proposal to follow up on an interest by a
21 company called Venture and the interest of
22 Osram Sylvania to introduce an agenda item
23 to discuss a certain recommendation. That's
24 what that is.

25 Q. I'm not leaving the topic until I get my

1 question answered.

2 A. Okay.

3 MR. CAMPBELL: I just want to point
4 out that, at six o'clock, it's seven hours.

5 THE WITNESS: I've got an eight
6 o'clock flight.

7 MR. STERN: If I have to continue
8 the deposition and seek an order to do so
9 from the Court to do so, i will. I'm okay
10 to do that. It's up to you.

11 MR. CAMPBELL: It's limited to
12 seven hours.

13 MR. STERN: I understand. So what
14 I'm saying, if you'd like me to make an
15 order and we'll come back, I'll do it, or
16 we can continue.

17 MR. COOPER: You may or may not
18 continue --

19 MR. STERN: That's true. The judge
20 may not allow it. That's true.

21 MR. CAMPBELL: He's got a plane, so
22 he's got to leave at six.

23 MR. STERN: This doesn't help get
24 it done.

25 MR. COOPER: Well, it doesn't help

1 to ask the same questions because you're not
2 satisfied --

3 MR. STERN: That's correct.

4 MR. CAMPBELL: Stop, stop. Mr.
5 Wolfe made it clear that the seven-hour
6 limit applied to the deposition, so --

7 MR. STERN: If that's what you're
8 doing for this deposition, it's your
9 decision.

10 MR. CAMPBELL: That is what I'm
11 doing.

12 MR. STERN: As I said, I'll seek an
13 order from the Court to continue the
14 deposition.

15 Q. Asking the question and still waiting for
16 the answer, is Mr. Yandek stating in
17 paragraphs 1 and 2 that an S-rated lamp
18 should not be used in an open fixture?

19 MR. CAMPBELL: That's about the
20 third or fourth time you've asked the same
21 question. He's answered it to the best of
22 his ability. Answer it again, but you're
23 wasting your time.

24 MR. STERN: I'm going to keep going
25 because we all know he hasn't answered it.

1 MR. CAMPBELL: No, we don't. He
2 has. You don't like the answer.

3 MR. STERN: He hasn't answered it.

4 MR. CAMPBELL: Yes, he has. He
5 absolutely has. So go ahead and answer it
6 again.

7 MR. STERN: He hasn't answered it.

8 MR. CAMPBELL: Yes, he has.

9 A. Okay. So the letter specifically on the
10 page with Bates number L099 GE 001419, under
11 the title "The Industry," talks about
12 Venture's interest in discussing this issue,
13 which is then later described, the fact that
14 the chairman of the NEMA Lamp Section, who
15 is with Osram Sylvania, has put the subject
16 on the agenda of the next NEMA Lamp Section
17 meeting in May, and that Ed Yandek, under
18 those circumstances, says that this
19 meeting -- that, "We should take this
20 meeting as an opportunity to minimize future
21 GEL liability by proposing that industry,
22 via NEMA, re-assess this situation and move
23 forward in a deliberate, but planned fashion
24 to recommend that," and so there are three
25 items that he, through this letter, puts

1 into essentially a proposal for a topic of
2 discussion with all of the entities that
3 have been identified, and --

4 Q. As my question just said -- I don't know
5 what part of the question wasn't clear --
6 just looking at those numbered paragraphs,
7 Mr. Yandek is saying an S-rated lamp
8 shouldn't be used in an open fixture;
9 correct?

10 MR. CAMPBELL: Objection to the
11 form of the question. He's already answered
12 that now for the fourth time. He'll answer
13 it again, but your time is running out.
14 Excuse me. He didn't write the document.
15 Mr. Yandek wrote the document. You're
16 asking him a question about what Mr. Yandek
17 meant by the words. He's reading the words
18 and answering the question as best he can
19 under the circumstances. Answer it again,
20 please.

21 A. There is no entry or any reference to
22 S-rated lamps.

23 Q. "All MH lamps be used in enclosed
24 fixtures." What does Mr. Yandek mean by
25 that?

1 MR. CAMPBELL: Object to the form
2 of the question. Don't speculate as to what
3 Mr. Yandek means.

4 MR. STERN: I'll rephrase the
5 question.

6 Q. When Mr. Yandek says, "All MH lamps be used
7 in enclosed fixtures," do you take that to
8 mean that MH lamps can be used in open
9 fixtures?

10 A. Yes.

11 Q. How?

12 A. And he explains --

13 Q. I didn't ask the rest of the sentence.
14 Listen to the question.

15 MR. CAMPBELL: You just asked him
16 how. That is a question.

17 MR. STERN: No. I just asked about
18 those words.

19 MR. CAMPBELL: No, no. You said
20 "How."

21 MR. STERN: Yeah, for those words.

22 MR. CAMPBELL: You said "How." So
23 tell him how, please.

24 A. So the way Mr. Yandek specifically suggests
25 how is, unless they are rated suitable for

1 use in open fixtures.

2 Q. Okay. So the first part of the sentence
3 says you cannot use anything in an open
4 fixture; correct?

5 A. It says, "All Metal Halide lamps be used in
6 enclosed fixtures." I think that's very
7 clear.

8 Q. So Metal Halide lamps cannot be used in open
9 fixtures, for the first part of the
10 sentence.

11 A. Correct.

12 Q. And the second part of the sentence has a
13 clarification to the first part of the
14 sentence; correct?

15 A. Well, it says --

16 Q. Correct?

17 A. Yes.

18 Q. Okay. We can be done quicker.

19 MR. CAMPBELL: We can if you'd stop
20 using those type of idiotic prefaces to your
21 questions.

22 Q. Bullet point number 2 clarifies or defines
23 what the "unless" is; correct?

24 A. It makes reference to a potentially new
25 standard, I believe. So it's sort of a new

1 subject of discussion having to do with
2 having to be certified by the manufacturer
3 to pass the ANSI containment test, and
4 there's a clarification to that,
5 "(manufacturer
6 self-certification/verification)." I don't
7 know the details of that, but it's a topic
8 that is much richer than item number 1.

9 Q. Do you not understand bullet point number 2
10 to be referring to an O-rated lamp?

11 A. It talks about lamps rated suitable for use
12 in open fixtures and the fact that they
13 should be certified by the manufacturer to
14 pass the ANSI containment test, yes.

15 Q. Is that an O-rated lamp?

16 A. So an O-rated lamp is a lamp rated suitable
17 for use in open fixtures, and it talks about
18 certification, and exactly what Mr. Yandek
19 meant by the certification, I don't know. I
20 don't know whether at the time it was a new
21 standard, an evolving standard, or a
22 standard that he felt needed to be addressed
23 in some fashion. I have no idea what he
24 meant there.

25 Q. Is it the part where he says the ANSI

1 containment test; that's the part you don't
2 understand?

3 A. Well, the fact that it should be certified
4 by the manufacturer to pass the ANSI
5 containment test. The fact that he proposes
6 that lamps rated suitable for use in open
7 fixtures -- and I assume that that's O-rated
8 lamps -- should be certified in accordance
9 with the ANSI containment test, the fact
10 that he suggests that as an agenda item sort
11 of raises questions in my mind as to why is
12 it and what is it that Mr. Yandek is
13 thinking. There's probably something here
14 that I don't know about, as a matter of
15 background. I have no idea what he's
16 thinking.

17 Q. So you don't have all the information
18 necessary to reach an opinion as to whether
19 Mr. Yandek is talking about here not
20 allowing S-rated lamps to be in open
21 fixtures?

22 A. The point I'm making is that I don't
23 understand what the item 2 is about, what
24 the context of item 2 is.

25 Q. No. I understand that. I understand you

1 don't understand the context of number 2.
2 What I asked was: Do you not have enough
3 information to determine if Mr. Yandek is
4 speaking about here not allowing S-rated
5 lamps in open fixtures?

6 A. Item 1 is an agenda item that he feels
7 should be discussed by the industry
8 regarding all MH lamps being used in
9 enclosed fixtures, unless they're rated
10 suitable for use in open fixtures. That's
11 all it's saying.

12 Q. And that part would bring you to the second
13 one; correct?

14 A. Yeah.

15 Q. Is the second numbered paragraph really the
16 definition of what he had in quotes in the
17 first sentence?

18 MR. CAMPBELL: Objection to the
19 form of the question. Don't speculate as to
20 what he was thinking about.

21 Q. Do you understand the second sentence to be
22 the defining of the words that are in the
23 first sentence in quotes?

24 A. Look, if it was as straightforward as that,
25 it wouldn't be an agenda item that he is

1 proposing. I don't know why he wants the
2 entire industry to discuss this. If it was
3 a simple as you suggest, the industry would
4 not need to discuss it.

5 Q. That's better. Thank you. We previously
6 marked as plaintiff's exhibit 14 a
7 document. You can take a look at that.
8 (Indicating.) Have you ever seen this
9 document before I just handed it to you?

10 A. I believe I've seen something like this,
11 yes.

12 Q. Do you see the date at the bottom of this
13 document, bottom left-hand section?

14 A. October, 2008.

15 Q. Okay. So in looking at this document, does
16 it reflect that, as of October 2008, GE was
17 only selling the 750 watt lamp with an
18 E-rating?

19 A. Yes.

20 Q. And do you know why GE, as of October, 2008,
21 was only selling the 750 watt lamp with an
22 E-rating?

23 A. My understanding is that it simply had to do
24 with a harmonization of their offerings in
25 the context of the market and what other

1 lamp manufacturing companies were doing. So
2 obviously, the way that you present your
3 products has to do with, on the one hand,
4 the competition, and the other, the demand,
5 but also, what the total -- that is, what
6 your sales are of one product in relation to
7 another. I don't have any knowledge of what
8 was going on there, so I can't really tell
9 you.

10 Q. Do you know what change was made to the arc
11 tube, if any?

12 A. I don't know of any changes.

13 Q. Do you know of any changes that were made to
14 the outer glass?

15 A. I don't know.

16 Q. Do you know of any changes made to any part
17 of the lamp?

18 A. I don't believe that any changes were made.

19 Q. Let me show you a document that was
20 previously marked as plaintiff's exhibit
21 16. (Indicating.) If you could take a
22 quick look at that document.

23 A. Yeah.

24 Q. Have you ever seen this document before
25 now?

1 A. I don't recall seeing this document before.

2 Q. Were you aware that a GE nuclear facility
3 had an NPF of a 400 watt MVR before now?

4 A. I had seen mention of it.

5 Q. In materials that were contained on Kytomaa
6 exhibit 7, 8, or 9?

7 A. Yes.

8 Q. Okay, and you mentioned earlier that there
9 were -- you did -- you looked at -- what's
10 it called -- National Fire Incident
11 Reporting System Data, and that's one of the
12 exhibits in your binder, exhibit 7, your
13 data that was summarized?

14 A. Yes.

15 Q. And is this incident, which is a 1990
16 incident, included in that National Fire
17 Incident Reporting System database?

18 A. So this looks like a 1999 event.

19 Q. Yes.

20 A. Based on the dates, and I don't know
21 specifically whether this event is in the
22 database.

23 Q. And there was also an NFPA document you had
24 showed us that was dated in 2001. Was this
25 incident included in that NFPA document?

1 A. I don't know whether this event was reported
2 or not.

3 Q. In reviewing this exhibit, looking at the
4 second page, do you see the "Causes"
5 section?

6 A. I do.

7 Q. It says "Wrong lightbulb for this specific
8 application. i.e., not designed for
9 continuous operation"?

10 A. Yes.

11 Q. Do you see the next bullet point,
12 "Manufacturer recommends turning light off
13 for 15 minutes a week, not routinely done"?

14 A. Yes.

15 Q. And then finally, "Light fixture not
16 designed for this bulb"?

17 A. I see that.

18 Q. And then "Lessons Learned" section says,
19 "Make sure equipment use is consistent with
20 all manufacturer's recommendations." Do you
21 see that conclusion or that "Lessons
22 Learned," as the author of that document?

23 A. I do.

24 Q. Then do you see, going down two more pages,
25 what appears to be presumeably the

1 applicable label for that 400 watt?

2 A. Yes.

3 Q. And does that label talk about the specific
4 application of that 400 watt?

5 A. It's very hard to read.

6 Q. From reading the second page, the causes,
7 "Wrong lightbulb for this specific
8 application, not designed for continuous
9 operation," and then "Manufacturer
10 recommends turning light off for 15 minutes
11 a week, not routinely done" -- if you
12 look -- it appears clearer later on. The
13 labeling is repeated again.

14 A. Okay.

15 Q. It's much clearer in the next --

16 A. Okay, yes.

17 Q. So do you see where it talks about the 15
18 minutes right there in the middle, the
19 bullet points?

20 A. I don't.

21 Q. One, two, three, fourth bullet point.

22 A. Yes, I see that.

23 Q. And do you see "MVR 400/U"? Do you know
24 what the "U" means?

25 A. It's the operating position.

1 Q. What does "U" stand for?

2 A. It stands for "universal" burning position.

3 Q. In reading these materials, did GE's nuclear
4 facility not follow the labeling? Is that
5 what this person is saying in the "Causes"
6 and "Lessons Learned" section?

7 A. No. I think what he's saying is that, when
8 the lamp was specified for the application
9 and when the fixture was selected for this
10 particular application, they were aware of
11 what this facility was doing, and in fact,
12 as reflected by an e-mail, and that the
13 selection of the lamp and the fixture were
14 not the correct selection. So that kind of
15 information is not information that you
16 derive from the wrapper of the lamp. It's
17 information that you derive from the catalog
18 when you make the selection in the first
19 place.

20 Q. If you look at the first bullet point, it
21 says, "Wrong lightbulb for this specific
22 application, i.e., not designed for
23 continuous operation." Then when you look
24 at the wrapper, it says, "In continuously
25 operating systems, 24 hours per day, seven

1 days per week, turn lamps off once per week
2 for at least 15 minutes. Failure to comply
3 increases the risk of rupture." So the
4 wrapper does talk about what happens or what
5 you need to do when you continuously operate
6 the lamp. You need to turn it off for 15
7 minutes per week; right?

8 A. Right. I guess, that's the -- did they know
9 that they couldn't turn lights off 15
10 minutes per week and it was a selection that
11 was made, or the communication did not occur
12 between the people who specified the lamp to
13 the operating people that they should switch
14 the lights off, and it seems that a
15 communication did occur in a sense that,
16 whenever the lamps were replaced, the
17 information was there on the wrapper to
18 communicate to the people that the lights
19 should be turned off for 15 minutes every
20 week.

21 Q. And then it says, the second bullet point,
22 "Manufacturer recommends turning light off
23 for 15 minutes per week, not routinely
24 done." Do you see that?

25 A. Yes.

1 Q. So the operator wasn't following that
2 instruction; correct?

3 A. That's correct.

4 MR. CAMPBELL: You are now five
5 minutes over.

6 MR. STERN: It's up to you.

7 MR. CAMPBELL: We're done.

8 (Whereupon, at 6:11 p.m., the
9 deposition was suspended.)

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1 DEPONENT'S ERRATA SHEET
2 AND SIGNATURE INSTRUCTIONS

3 The original of the Errata Sheet
4 has been delivered to Atty. Campbell.

5 When the Errata Sheet has been
6 completed by the deponent and signed, a copy
7 thereof should be delivered to each party of
8 record and the ORIGINAL delivered to Atty.
9 Stern, to whom the original deposition
10 transcript was delivered.

11
12

13 INSTRUCTIONS TO DEPONENT

14

15 After reading this volume of
16 your deposition, indicate any corrections or
17 changes to your testimony and the reasons
18 therefore on the Errata Sheet supplied to
19 you and sign it. DO NOT make marks or
20 notations on the transcript volume itself.

21

22 REPLACE THIS PAGE OF THE TRANSCRIPT WITH THE
23 COMPLETED AND SIGNED ERRATA SHEET WHEN
24 RECEIVED.

25

ATTACH TO DEPOSITION OF: HARRI K. KYTOMAA
CASE: Metso Paper vs. GE

ERRATA SHEET

INSTRUCTIONS: After reading the transcript of your deposition, note any change or correction to your testimony and the reason therefore on this sheet. DO NOT make any marks or notations on the transcript volume itself. Sign and date this errata sheet (before a Notary Public, if required). Refer to Page 257 of the transcript for errata sheet distribution instructions.

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10	_____	CHANGE: _____ REASON: _____
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16	_____	CHANGE: _____ REASON: _____
17	_____	CHANGE: _____ REASON: _____

I have read the foregoing transcript of my testimony, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statements made by me.

Signed under the pains and penalties of perjury this _____ day of _____, 2011.

HARRI K. KYTOMAA

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

I, Denise M. Rae, a Certified
Shorthand Reporter and Notary Public duly
commissioned and qualified within and for
the Commonwealth of Massachusetts, do hereby
certify:

That HARRI K. KYTOMAA, the witness
whose deposition is hereinbefore set forth,
was duly sworn by me, and that such
deposition is a true record of the testimony
given by the witness to the best of my
skill, knowledge, and ability.

IN WITNESS WHEREOF, I have hereunto
set my hand and my affixed notarial seal
this 30th day of January, 2011.

Denise M. Rae

Notary Public

My commission expires:
January 21, 2016.

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